

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

REAL PROPERTY LOCATED AT 4697
LINGARD ROAD, MERCED,
MERCED COUNTY, CALIFORNIA,
APN: 066-130-005, INCLUDING ALL
APPURTENANCES AND
IMPROVEMENTS THERETO,

Defendant.

CIV- F-05-476 AWI SMS

ORDER CLOSING CASE IN
LIGHT OF RULE 41(a)(1)
STIPULATION FOR
DISMISSAL

On August 17, 2007, the parties filed a stipulation for dismissal of this action. The notice indicates that it is made pursuant to Rule 41(a)(1).

Rule 41(a)(1), in relevant part, reads:

an action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim.

Dismissals under Rule 41(a)(1) are effective upon filing and no court order is required. See Commercial Space Mgmt. Co. v. Boeing Co., 193 F.3d 1074, 1077 (9th Cir. 1999); Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997); In re Wolf, 842 F.2d 464, 466 (D.C. Cir. 1989); Eitel v. McCool, 782 F.2d 1470, 1472-73 (9th Cir. 1986); Gardiner v. A.H. Robins Co.,

1 747 F.2d 1180, 1189 (8th Cir. 1984). Because the parties have filed a stipulation for dismissal
2 that complies with Rule 41(a)(1), this case has terminated.

3
4 Therefore, IT IS HEREBY ORDERED that the Clerk close this case in light of parties's
5 filed Rule 41(a)(1) Stipulation For Dismissal.

6
7 IT IS SO ORDERED.

8 **Dated:** August 27, 2007

/s/ Anthony W. Ishii
UNITED STATES DISTRICT JUDGE